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ABSTRACT

At the request of Congress, the General Accounting Office (GAO) conducted a study of drug testing of employees by employers. To identify and obtain the most recent surveys on drug testing policies and practices in the private sector, the GAO searched 14 computerized bibliographic files and discussed information needs with representatives of 35 public and private organizations knowledgeable about drug testing practices. From this search, 10 usable surveys were found and analyzed. The survey data indicate that (1) drug testing is a common, but not universal private sector practice, more likely among larger firms; (2) firms are more likely to test applicants than employees; (3) more firms plan to implement drug testing in the future; (4) some firms do not provide confirmatory tests to employees or applicants who initially test positive; (5) some firms retest employees or applicants using the same type of test as that used initially; and (6) some firms do not tell applicants that the reason they were not hired was because of a positive drug test. The GAO plans to continue the study on drug testing in the workplace and to determine the regulatory controls over drug testing laboratories. (KC)

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Statement of
L. Nye Stevens, Associate Director
General Government Division

Before the
Subcommittee on Employment Opportunities
Committee on Education and Labor
House of Representatives

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EMPLOYEE DRUG TESTING

SUMMARY OF STATEMENT BY
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In response to a request by Congressman Charles E. Schumer, GAO obtained and reviewed 10 surveys on private sector drug testing. GAO's objective was to summarize the information in these surveys concerning the extent and nature of employee drug testing in the private sector.

On the basis of the available survey data and pattern of response across surveys, GAO believes some summary observations can be made about private sector drug testing as practiced by survey respondents. The survey data indicate that:

-- drug testing is a common, but not universal private sector practice;

-- firms are more likely to test applicants than employees;

-- larger firms, as measured by the number of employees, are more likely to drug test; and

-- more firms plan to implement drug testing in the future.

Regarding the treatment of individuals subjected to drug testing, the surveys show that, although they are generally in the minority, there are firms that:

-- do not provide confirmatory tests to employees or applicants who initially test positive,

-- retest employees or applicants using the same type of test as that used initially, and

-- do not tell applicants that the reason they are not hired was because of a positive drug test.

For a number of methodological and statistical reasons, the survey results should not be considered a statistically valid, representative sample of the population of businesses nationwide. The data from the surveys are only indicative of the drug testing practices reported by the firms that responded.

Mr. Chairman and Members of the Subcommittee, it is a pleasure to appear before you today to testify on the extent and nature of employee drug testing in the private sector. Inasmuch as H.R. 691 would apply to private sector drug testing programs, we believe this testimony will provide a useful characterization of the existing programs that could be affected by the proposed legislation.

At the request of Congressman Schumer, we reviewed recent surveys on private sector drug testing. Our report entitled Employee Drug Testing: Information on Private Sector Programs (GAO/GGD-88-32, March 2, 1988) summarizes the information contained in the individual survey reports and relates it to some of Congressman Schumer's specific concerns about private sector drug testing practices.

Results in brief

Overall, the surveys indicate that drug testing is a common, but not universal private sector practice and that drug testing may become more common in the future. The surveys also suggest that larger firms, in terms of the number of persons employed, are more likely to drug test and that firms with testing programs are more likely to test applicants than employees.

With regard to the treatment of individuals who are drug tested, the surveys show that, although they are generally in the minority, there are firms that do not provide confirmatory tests to employees or applicants who initially test positive. There are also firms reporting that they do not tell applicants that the reason they were not hired was because of a positive drug test.

Before providing further details in support of these observations and additional survey information, we will briefly describe the surveys used and mention some of the methodological qualifications that need to be kept in mind concerning this survey data.

Overview of the surveys

To identify and obtain the most recent surveys on drug testing policies and practices in the private sector, we searched 14 computerized bibliographic files. We also discussed our information needs with representatives of over 35 public and private organizations knowledgeable about drug testing practices. In the end, we identified 12 surveys with items on drug testing. However, we considered only 10 surveys usable for our purposes.

In general, large and medium sized firms--as measured by the number of employees--responded to the surveys. Roughly half or more of the firms responding to five of the surveys said that they employed over 500 persons. Three other surveys characterized the responding firms as among the nation's largest business organizations. For example, one survey focused only on Fortune 100 firms, which in 1987 employed a total of about 8.5 million people.

The data from these surveys are reasonably current. Of the 10 surveys, 5 were published in 1987, 4 in 1986, and 1 in 1985. The primary purpose of most of the surveys was to obtain information about drug testing, or workplace drug abuse which included drug testing.

The number of firms being surveyed ranged from a low of 100 in one survey to a high of approximately 35,000 in another. The percent of surveys returned ranged from less than 1 percent to 100 percent. The actual number of respondents providing information ranged from a low of 60 in one survey to a high of over 1,900 in another.

Interpreting survey results

Before discussing the survey results, certain qualifications must be made concerning the use and interpretation of the data. For a number of methodological and statistical reasons which are detailed in our report, the survey results should not be averaged or considered a statistically valid, representative sample of the population of businesses nationwide.

For most of the surveys, certain limitations, such as low response rates and selective samples, preclude projecting the results beyond the group of businesses that actually responded to the surveys.

Despite these restrictions, we believe these surveys are a useful source of information about private sector drug testing. The figures obtained from the surveys are indicative of the drug testing practices reported by the firms that responded. This constitutes a large number of corporations reflecting a broad cross section of the nation's businesses.

The extent of drug testing

All 10 surveys provided some information on the prevalence of testing, and almost all the surveys differentiated between programs for employees and those for applicants. The results

indicate that across the surveys a number of the responding companies, though not a majority, had drug testing programs. The highest figures were reported in two surveys that focused on some of the nation's largest companies. Roughly half the respondents to these two surveys indicated that they had a testing program. At the low end of the spectrum, another survey said that only 9 percent of the responding firms had an employee drug testing program.

The majority of surveys also showed that firms were more likely to test applicants than employees. In one survey, 55 percent of the respondents said that they tested applicants. This was the highest percentage reported across all surveys concerning the extent of drug testing.

The surveys indicated that larger organizations were more likely to have drug testing programs. For example, in one of the surveys only 16 percent of the firms with less than 500 employees had drug testing programs while 36 percent of the firms with 5,000 or more employees had testing programs. Four of the surveys looked at the percent of firms testing for drugs relative to their number of employees. All four surveys showed that a greater percentage of the largest firms have testing programs.

The surveys also suggest that drug testing may become more common. A number of firms that were not testing at the time of the survey said they were planning to do so in the foreseeable future. The lowest figure reported across surveys for firms planning to test was 3 percent while the highest figure reported was 20 percent. One survey noted a concern that if the trend toward drug testing continues, drug users may gravitate to those organizations known not to test and that other employers will have to follow suit as a matter of self-protection.

The testing methods most often used

In all five of the surveys that inquired about drug testing methods, the majority of survey respondents reported urinalysis as the method they used. In those surveys that asked about who performs the testing, the majority of firms reported using independent laboratories.

Seven of the surveys raised the question of confirming initial positive tests with a second test. Although the majority of firms in five of the surveys said they performed some kind of retest, performing a confirmatory retest was not a universal practice. Less than half the firms reported retesting in the other two surveys.

Further, it appears that retesting was less common for applicants than for employees. In two of the three surveys that specifically reported on retesting of applicants, less than half of the firms said that they provided follow-up testing for job applicants who failed an initial test.

Three surveys made the distinctions among the following: 1) retesting with some other confirmatory test, 2) retesting with the same type of test as the initial test, and 3) no retesting. Although more firms reported retesting with some other type of urinalysis test, there were firms reporting that they used the same test. Other confirming tests included some that were more sophisticated, such as one of several chromatography urine tests.

Who receives drug testing and why

Among firms that tested employees, the majority of firms cited testing for cause, such as after an accident, as the reason for testing. As one survey noted, this type of testing may be prevalent because it is less controversial and has support in the courts.

To a lesser extent, firms used random or periodic testing for employees. The percent of firms reporting they did random testing ranged from 23 percent to 10 percent across the seven surveys providing information on this type of testing. It appears that testing for selected jobs, such as those involving safety, is more common than random testing, but only two surveys provided figures on this form of employee drug testing. In these surveys, 38 percent and 34 percent of the firms reported testing for selected jobs.

All six of the surveys reporting on the types of applicants tested indicated that among firms testing applicants, it was more common to test all applicants. Across these surveys, 79 percent to 94 percent of the firms that screen for drugs said that they tested all applicants.

Reasons for having and not having drug testing programs

Five surveys noted respondents' reasons for having a drug testing program. Among the reasons often cited for drug testing were improving workplace safety, increasing productivity, curbing illegal drug traffic, and reducing employee medical costs. Firms that did not test generally cited reservations about the costs and reliability of drug testing as well as the ethical and moral implications of the process. Other concerns included employee opposition, legal implications, and some doubts among a few

responding firms that if an employee took drugs, and the test showed that drugs were present in the body, it would not necessarily indicate job impairment.

What happens to those individuals testing positive

In the seven surveys that asked about the various actions taken when an applicant tested positive for drugs, the majority of firms said that they would not hire job applicants who failed drug testing. However, a number of firms also indicated that they would allow reapplication later. Across the three surveys reporting figures on reapplication, the percent of firms indicating they would allow reapplication ranged from 30 to 79 percent. Some firms noted that reapplication may be contingent on such factors as a negative retest, passage of a specified time period, or evidence of rehabilitation. Two surveys reported that the majority of firms would not consider an applicant if the candidate refused drug testing.

There were more firms that said they would tell applicants testing positive why they were not being hired than firms that would not explain the reason for rejection. Across the four surveys addressing this issue, between 2 and 25 percent of respondents indicated they would not tell applicants the reason for rejection.

In all five of the surveys asking about employees who tested positive, the majority of firms indicated a preference for rehabilitation rather than dismissal. Across the surveys, between 52 and 89 percent of responding firms said that they would refer an employee to a rehabilitative program. Two of the surveys noted that the choice or combination of actions would be determined on a case-by-case basis for employees who tested positive. One survey noted that termination is often the final outcome, but warnings or suspensions were also frequent alternatives, particularly for the first offense.

A written drug testing policy can inform managers and employees of company procedures for dealing with drug use. One survey asked companies engaging in drug testing if they had a written policy on drug testing. While the majority of firms said that they had either a written policy or were in the process of writing one, 14 percent of the respondents who drug test indicated that they had no written policy or plans to develop one. This suggests that, although they are a minority, some firms operate without written, formal procedures describing their drug testing program or procedures.

GAO work in progress

Mr. Chairman, this concludes my overview of the information contained in the surveys we reviewed. Before completing my statement, however, I would like to briefly describe a related project we have underway, also at the request of Congressman Schumer. This work will examine the degree to which states regulate laboratories that analyze drug test samples.

As you know, one of the prime concerns regarding employee drug testing is the ability to ensure accurate test results. This concern becomes more important when one considers that as more private sector firms implement drug testing, more commercial laboratories may become involved in analyzing the specimens. The quality and competence of these laboratories have a direct bearing on the accuracy of test results.

We plan to survey the 50 states next month to determine the regulatory controls over drug testing laboratories. Among other things, we will look at licensing requirements, quality control standards, proficiency testing requirements, personnel standards, and state inspection programs.

We have already identified some inconsistencies between states. As part of the process of developing our survey questionnaire we contacted officials in 34 states by telephone and obtained some preliminary information. In 21 of the 34 states contacted, laboratories must be licensed or approved by meeting specific laboratory requirements. Requirements in six of these 21 states include fairness standards and privacy rights for the individual. Thirteen of the states we contacted, however, do not have standards or regulations that laboratories are required to meet, although four currently have drug testing proposals pending in their state legislatures. We will explore these differences in greater detail as our work progresses.

We have also noted that under certain circumstances, laboratories do have to meet minimum federal requirements, such as when testing Medicare patients or military personnel, or when engaging in interstate commerce. However, when testing private sector employees, only the Clinical Laboratory Improvement Act (CLIA), a federal law covering laboratories that do interstate testing, would apply. CLIA standards include personnel qualifications, quality control procedures, record keeping and equipment requirements, and assurances of an acceptable external proficiency test program.

Laboratories that do not test Medicare patients, the military, or public sector employees, and operate solely within one state, do not fall under any federal laws. Based on our preliminary information, we note that some laboratories in

approximately a third of the 34 states we contacted are unregulated at the federal or state level.

This concludes my comments, I would be pleased to answer questions.